

### III. Remarks

Applicants extend their thanks to the Examiner for his comments in the most recent office action. Applicants have adopted those comments in so far as no additional limitations were made.

#### A. Claim Rejections Under 35 USC §102(b)

Claims 1, 3, 5, 7, 8, 11, and 12 stand rejected as being anticipated by US Pat. No. 5,562,613 (hereinafter referred to as the '613 patent). The Examiner contends that the '613 patent discloses a pre-loadable implantation device comprising a needle (104), a body (16) and an elongated part, a plunger (108), the periphery of the plunger defining a channel, a chamber (104b) and a door(102,102a,104). The Examiner directs attention to Figures 3, 6-10 and the entire reference. The Examiner specifically draws attention to Figures 9 and 10 for a chamfered needle and figures 3 and 6 where the device is closed after preloading. Applicants respectfully request reconsideration.

Applicants have incorporated that the chamber is located on or above the channel. Such limitation renders the Claims patentable over the cited art. However, the addition of such limitation does not create any estoppel, as the limitation was inherent from the disclosure. No broader interpretation could be given than that of the amended claims.

Claims 1, 3, 5, 7, and 8 stand rejected as being anticipated by US Pat. No. 1,655,158 (hereinafter referred to as the '158 patent). The Examiner contends that the '158 patent discloses a preloadable implantation device comprising a needle, and an elongated part, a plunger, the periphery of the plunger defining a channel, a chamber and

USSN 09/544683

4

a door. The Examiner specifically directs attention to reference numbers 20, 23, and 24, along with Figures 1-10 and the entire reference. Specific reference is made to Figures 4-9 for a chamfered needle. Further, specific reference is made to Figures 4-8 for wherein the outside is closed after preloading. However, the '158 patent discloses a device different than the claimed device of Applicants' invention. Accordingly, Applicants respectfully request reconsideration of the rejection in light of this response.

Applicants have incorporated that the chamber is located on or above the channel. Such limitation renders the Claims patentable over the cited art. However, the addition of such limitation does not create any estoppel, as the limitation was inherent from the disclosure. No broader interpretation could be given than that of the amended claims.

Claims 1 and 3-8 stand rejected under 35 USC §102(b) as being anticipated by US Pat No. 5,405,324 (hereinafter referred to as the '324 patent). The Examiner contends that the '324 patent discloses a preloadable implantation device comprising a needle, and an elongated part, a plunger, the periphery of the plunger defining a channel, and a chamber. The Examiner directs attention to Figures 1-3 of the '324 patent. The Examiner further refers to the Figures for contention that the needle and plunger are chamfered and the outside is closed after preloading, in the '324 patent. Applicants respectfully request reconsideration of the rejection in light of this response.

Applicants have incorporated that the chamber is located on or above the channel. Such limitation renders the Claims patentable over the cited art. However, the addition of such limitation does not create any estoppel, as the limitation was inherent from the disclosure. No broader interpretation could be given than that of the amended claims.

USSN 09/544683

5

**B. Claim Rejections Under 35 USC §103**

Claims 1 and 3-8 stand rejected as being unpatentable over the '158 patent in further view of US Pat. No. 5,405,324 (hereinafter referred to as the '324 patent). The Examiner asserts that the '324 patent discloses the implanter as a hormonal implanter and concludes it would be within the level of ordinary skill in the art to combine the teachings of the '324 patent and the '158 patent because it is known to use different medications with an implanter. Applicants respectfully request reconsideration in light of this response.

Applicants have incorporated that the chamber is located on or above the channel. Such limitation renders the Claims patentable over the cited art. However, the addition of such limitation does not create any estoppel, as the limitation was inherent from the disclosure. No broader interpretation could be given than that of the amended claims.

Claims 1 and 3-8 stand rejected as being unpatentable over the '613 patent in further view of the '324 patent. The Examiner reasserts the contention that the '324 patent teaches a hormonal implanter and that it would have been obvious to one of ordinary skill in the art to combine the teachings of the '324 patent and the '613 patent because it is known to use different medications with an implanter.

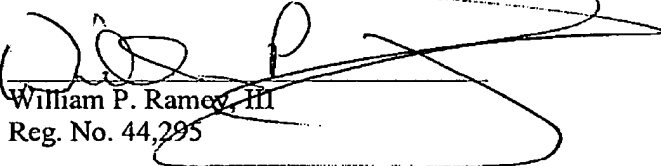
Applicants have incorporated that the chamber is located on or above the channel. Such limitation renders the Claims patentable over the cited art. However, the addition of

such limitation does not create any estoppel, as the limitation was inherent from the disclosure. No broader interpretation could be given than that of the amended claims.

#### IV. Conclusion

Applicants respectfully request reconsideration of the rejections in light of this response. The application is believed in a condition for allowance and Applicants respectfully request such action. Please call the below undersigned attorney for any assistance in securing allowance of this application and for an interview. Please charge deposit account number 02-2334 for any required fees and to credit any credits.

Sincerely,



William P. Ramey, III  
Reg. No. 44,295

Akzo Nobel Pharma Patent Department  
405 State Street  
P.O. Box 318  
Millsboro, DE 19966  
Tel: (302) 933-4034  
Fax: (302) 934-4305